UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ERIC L. JEFFRIES, Plaintiff, vs. CENTRE LIFE INSURANCE COMPANY, et al., Defendants.	:	Case No. C-1-02-351

Deposition of DONALD NUNLIST-YOUNG, MD, a witness herein, called by the defendants for cross-examination, pursuant to the Federal Rules of Civil Procedure, taken before me, Connie Dupps, a Registered Professional Reporter and Notary Public in and for the State of Ohio, at the offices of Donald Nunlist-Young, MD, 2567 Erie Avenue, Cincinnati, Ohio, on Thursday, September 11, 2003, at 5:30 PM.

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that you would have seen Mr. Jeffries?

A. January 25th, 1993.

Q. And what was the occasion that you came to see him January of 1993?

A. He complained of prostate problems.

Q. And did you record the history that he gave you at that time?

A. Yes.

Q. What was the history?

A. He had developed a prostate problem in November of 1992 and also had a bladder infection in the past. He was now feeling somewhat swollen and tender in the rectal area and had some urinary hesitation.

And had seen Dr. Mulvaney, M U L V A N E Y, who had treated him with an antibiotic in the past, that was Bactrim twice a day, and had several evaluations that made him dizzy.

But at this time he was having no fever and no blood in the urine, but had one episode of blood in the stool, but his urine was dark. He was now somewhat better after the antibiotic. That was the history.

Q. When you say he had several evaluations,

abdomen. And his rectal exam revealed that the prostate was soft and smooth. It was not tender and there were no palpable hemorrhoids, so that was basically a normal examination.

Q. Soft, smooth, and nontender is normal?

A. Yes. Prostatitis would be tender.

Q. Okay. So basically a negative objective evaluation in spite of the subjective complaints?

MR. ROBERTS: Objection. Go ahead.

Q. Is that correct?

A. That examination was unremarkable, yes.

Q. All right. And your assessment?

A. My assessment was that he had a resolving prostatitis, he had the symptoms and that they had improved. That he did have some hemorrhoids, but, by history, but they weren't palpable. And he developed some mild acne on the abdomen with his antibiotic treatment.

Q. Okay. Would the hemorrhoids have accounted for blood in the stool potentially had they been there?

A. Yes.

Q. Okay. And your plan of treatment?

A. Was we did a urinalysis, checked the urine

His neck was unremarkable. His chest was clear to both percussion and auscultation. And he exhibited a dry cough with some occasional wheezing at the time of the cough.

Q. What were you able to conclude as your assessment at that time?

A. My diagnosis was an acute bronchitis and I questioned in the chart whether it was a viral, bacterial, or histoplasmosis.

Q. I'm sorry. A viral, bacterial, or what?

A. Histoplasmosis which is common in the Ohio River Valley.

Q. What is histoplasmosis?

A. It's in the same family of germs as TB and often results in a little scarring that we often see on chest x-rays by the time people get to be my age, in their 50's.

Q. And your plan for that one?

A. We wanted to make sure there was no pneumonia. We ordered a chest x-ray and gave him Erythromycin and Ceftin, 2 different antibiotics to cover different possibilities, and a cough syrup containing codeine. His chest x-ray was normal as reported on August 2nd on the next encounter.

Q. And did that situation resolve or did you have to see him again?

A. I did not see him again until September 2nd of '93.

Q. Okay. Let's talk about the cough and the phone calls that came in in August. Did you receive any phone calls from him on August 3rd?

A. No, I have August 2nd.

Q. Okay. Like I said, I have difficulty reading some of these. August 2nd?

A. Yes.

Q. And what was the nature of the phone conversation?

A. He was inquiring the results of the chest x-ray that had been done, that was normal, so it confirmed there was no pneumonia. And the diagnosis by exclusion at that time would be a bronchitis.

Q. Did he call you again on the 3rd?

A. I don't have any documentation of that, no -- oh, I'm sorry. It's out of order. There was a phone call on August 3rd.

Q. He called on the 2nd and found out that his chest x-ray was normal and called you again on the 3rd?

A. Correct.
Q. And what happened on the 3rd?
A. He was still feeling ill, not feeling any better, still had a dry cough, dry throat, chest congestion, wanted something more to relieve his symptoms.
And at that point since the antibiotics were not helping we -- I treated him for bronchospasm or some asthmatic type reaction to the bronchitis, and so I prescribed him Proventil and Azmacort, which are two inhalers that we use for wheezing and bronchospasm which may contribute to cough, and we also continued the Ceftin and Erythromycin.
Q. When did you next see or hear from Mr. Jeffries?
A. Let's see, August 28th he was still coughing and --
Q. Did you change prescriptions on that day?
A. Yes, yes. He was still coughing, stating that the antibiotics and inhalers were not effective. That chest pain was gradually improving, but he was still feeling fatigued. We asked him to come back to see me and also prescribed in the

meantime some cortisone tablets, Prednisone.

Q. Prednisone being a steroidal anti-inflammatory?

A. It's a cortisone steroid.

Q. Did he describe the fatigue to you or was it simply that he was feeling tired?

A. Simply described that he was feeling tired.

Q. All right. Did you have him visit you in a follow-up visit after the phone call of the 28th?

A. Yes, he came back on September 2nd.

Q. And can you, since I cannot unfortunately read your notes, at that time tell me what the history is?

A. His complaints to my nurse was the cough was now lasting for six weeks. And when he and I discussed, we confirmed that the cough had persisted now and he was having some spasms with the cough.

Q. Spasms of what?

A. Spasms of coughing, prolonged episodes of coughing.

Q. Okay. What are the first two words of your note there under S?

A. Persistent cough with spasms of cough.

Q. Okay. Thank you.

A. And feels to be in the chest as opposed to up in the throat. We were trying to distinguish whether or not it was a dry, irritated throat triggering cough or whether it was in his chest. And I was clarifying with him in this note it was coming from his chest, and he was producing a small amount of clear sputum.

Q. Was there anything else he gave you as history there?

A. He was not sleeping well. The cortisone tablets, the Prednisone, were interfering with his sleep as was the cough. The inhalers weren't doing much with the cough, just confirmed that again in my note. That was the history.

Q. Okay. What were your observations at that time?

A. His head, eyes, nose, and throat were unremarkable. The neck revealed no lymph nodes. His chest was clear to percussion and auscultation. So the exam was normal at that time.

Q. Did it show in effect the complaints were that he was continuing to have the cough, but there was no evidence or problem with the chest, throat,

eyes, nose that would suggest there was a dry irritated throat or whatever causing it?

MR. ROBERTS: Objection.

A. Yes.

Q. Were you able to determine why he was coughing at that time from an objective standpoint?

A. No, not from an objective standpoint.

Q. What was your assessment?

A. Well, from a subjective and objective viewpoint, I felt that his history was consistent with a now somewhat chronic bronchitis with bronchospasm that was giving him episodes of bronchospasm of the bronchial airway that resulted in episodes of cough primarily as opposed to wheezing. In other words, he was showing an asthma where you cough as opposed to a wheeze.

Q. Just as a side here. If someone has a cough that starts to subside and they continue to use an albuterol, for example, inhaler, that can cause a paradoxical bronchospasm, can it not?

MR. ROBERTS: Objection.

A. I'm not aware of that. I have not seen that myself.

Q. Okay. Now, your diagnosis at that time

visit?

A. His ear exam was unremarkable with normal tympanic membranes. His eyes were unremarkable. His nose unremarkable. His throat was mildly red with no exudate or pus. His neck did not show any lymph nodes. His chest was clear to examination. And his skin showed no rash. His temperature was 97.8.

Q. Basically a normal exam except for the slight redness in the throat?

A. Yes, we did a rapid strep screen, which was negative for strep in the office lab to reassure that he didn't have strep throat.

Q. Did he suggest that maybe he thought it was strep or was that just taken on your own?

A. He was exposed to somebody with scarlet fever, and strep is the germ responsible for scarlet fever.

Q. And he wanted to be sure that he didn't have it or you did?

A. I did.

Q. Okay. You assured him that his strep was negative?

A. Correct.

Q. What about the -- what treatment, if any, did you render at that time?

A. Well, I thought, again, he had either allergic or viral pharyngitis, but I wanted to cover him for any bacterias, so I gave him Amoxicillin three times a day and also give him the Claritin, antihistamine, and recommended lozenges, and lots of fluids.

Q. Again, we're getting into the summer season when he starts to have the difficulties with his throat?

MR. ROBERTS: Objection. Go ahead.

A. That was June 16th.

Q. Was there any further findings or treatments from that visit on June 16th?

A. He received a hepatitis B vaccine on -- this is '97, right?

Q. Yes.

A. At his request he then received a hepatitis B vaccine on June 18th and hepatitis A vaccine on June 18th at our office.

Q. So he made a return visit to have those shots?

A. Right, two days later.

Q. When he returned were there any symptoms or was it solely for the purpose of acquiring the shots he sought?

A. He saw the nurse. There was no documentation of any symptoms.

Q. What was the next contact you had with Mr. Jeffries?

A. It was a phone conversation on June 24th. He complained of achy joints, nausea, and the symptoms dated since the hepatitis A and hepatitis B shots.

I recommended Tylenol and clear liquids to go easy on the stomach with the nausea, and recommended he come see me if he didn't feel better.

Q. Is that note on a different page than your office visits of 6/16 and 6/29?

A. The phone call?

Q. Yes.

A. I don't have an office visit for 6/29. I think I'm interpreting that as a 24 and you're interpreting it as a 29, and I think that's a phone call that we just -- most phone calls are documented on these little cheat sheets that the nurses develop, but if I take the call directly I just

start writing in the chart because I don't need the nurse to pass that stuff onto me.

Q. Okay.

A. So that's my note.

Q. So that note --

A. That's a phone call.

Q. I see. Now I understand. That note you're saying is the 24th and I'm misreading the date. And it says?

A. Arthralgia, nausea.

Q. The next word?

A. Symptoms since hepatitis A and B.

Q. Okay. And you prescribed Tylenol and what else?

A. Clear liquids, recommended that he come see me if he's not better.

Q. All right. And did he then come see you?

A. He returned to the office on June 30th, 1997.

Q. Was there a phone call on the 27th of June as well?

A. Next page I have a phone call, yes. Let's see, phone call was that he had received the hepatitis A and B vaccine the prior week and was now

having severe pain in the joints and also had night sweats, and thought it was an allergic reaction. He was going out of town, but had appointment the following Monday to discuss it.

Q. The following Monday, which would have been the 30th, of course?

A. I believe. I don't have a calendar, but I assume that's what it was.

Q. Was there a second phone call?

A. Second phone call was with Smithkline Beecham. The nurse who gave him the shot contacted them reporting his possible reaction to the shot.

Q. And such reaction did she say begin or last for 10 to 14 days?

MR. ROBERTS: Objection. Go ahead.

A. Her note says hepatitis B does have reported serum sickness reactions 10 to 14 days after immunization, so your question was what again?

Q. Whether the note means that the reactions last 10 or 14 days or begin 10 or 14 days after?

A. The onset of them would be within the 10 or 14 day time zone after the shot was given.

Q. All right. And what does the rest of that note say?

A. If the MD determines that serum sickness is a possibility, no further A or B vaccines should be administered.

Q. All right. And then you saw him on the 30th; is that right, is that the next contact?

A. Yes.

Q. Of any kind?

A. Yes. Can we just take a break for a minute?

Q. Absolutely.

(Brief recess.)

Q. Now, we left off with the -- he was coming in to see you again on the 30th of June, 1997, correct?

A. Yes.

Q. At that time he complained that he had a terrible sore throat that comes and goes, he also had pain that seemed to be in different joints in his body; is that right?

A. Correct.

Q. He gave some additional history to you, what does that say?

A. His history was that, again, he was exposed to scarlet fever about June 1st, which

refers to the previous note that we already discussed. Then had a sore throat for 3 weeks. He was seen for the sore throat on June 16th. Then he had a bitter taste of bile in the throat that night.

Q. What night would that be, bitter taste of bile in his throat?

A. Had a bitter taste of bile in throat that night meaning the 16th.

Q. Okay.

A. Next sentence, had an odd pain in his stomach, sharp at times, no vomiting or diarrhea. His joint pains began approximately June 25th of '97 and were now feeling better, but still having pain on the edge.

I believe I'm saying the lateral edge of the foot, and the knees, and the shoulders, and the tips of the fingers, and in the tibial area, that is the shin area, clarifying they were very brief and transient, lasting moments -- lasting minutes to seconds. Some sensation of dullness in the right hand, was still having a sore throat persisting.

He told me that he did not take the Amoxicillin given on June 16th. Hand at times -- I'm sorry, head at times feels a fullness. He was

having night sweats and photophobia, that is light hurt his eyes. He felt light-headed and disoriented at times. His temperature at home varied from 97.5 to 98.5. He had no rash. He was having some insomnia.

Q. Anything else he gave you in history on that visit?

A. I believe that was all the history.

Q. What were your objective observations?

A. His temperature was 98.0. He was alert. He did not appear in any distress, but he was worried, his facial affect was a worry. His pulse was 80 and regular. His skin did not show any rash.

He did not have any chorea. Chorea is a term used to describe movements typical of strep infections where you get rheumatic fever, and so I'm just trying to clarify by that that he was not showing one of the signs of this possible scarlet fever infection to give him scarlet fever.

Q. Can you just give me an idea what these movements would be like, is it stiffness in the joint or --

A. It's like this (indicating). Kind of like doing a slow --

Q. A floating motion with your arms?

A. Which dance would you like me to describe it as. It's a slow dance like movement of all four extremities.

Q. Okay.

A. It used to be called St. Vitus's dance.

Q. That's absent?

A. That was absent.

Q. All right.

A. Pulse was 80. Skin, no rash, no chorea. His joints showed no tenderness in the hands, but he complained of having some pain. In other words, when I've actually squeezed and compressed the hands, it didn't elicit pain, but he just felt they were uncomfortable. No splinter hemorrhages, which are little blood hemorrhages that occur under the fingernails.

I made some note about the skin on his shoulder. There was some patchy skin on the shoulder that appeared to be normal, something normal sebaceous appearance. I guess I was trying to reassure him about something on the shoulder there.

Q. Okay. He had some concern about some

A. Next blood tests I have are from October 17th, which seems late. I'm not sure when this is, but that's -- his blood count came back from October -- wait a minute, let me check. I don't have anything dated from June of '97 for those test results.

Q. Okay.

A. I believe my next test results are October of '97.

Q. All right. Let's move on to the next contact with Mr. Jeffries then. Phone call a couple days later, July 2nd?

A. July 2nd, '97 he called and --

Q. What did he tell you?

A. Let's see, I think -- okay. He stated the weird pains were not getting any better and actually were getting worse. And reported that his three year old was complaining of joint pain as well. The child was actually having joint pains in the ankles.

We then were concerned, we referred him to try to get him in to see an arthritis specialist. David Greenblatt was our first try, he was booked up. We then recommended Dr. Houk and one of his associates, and question of Dr. Stanberry from

infectious disease came up. There was some difficulty trying to get him in to see a specialist.

Q. Was the infectious disease reference because the similar pains were being experienced by his three year old?

A. No, I'm still trying to clarify in my mind whether or not the patient has rheumatic fever or not.

Q. Did you ultimately get him in to see someone or did you see him next yourself?

A. I saw him on July 7th. I don't have any information from a specialist before that point, I don't believe.

Q. Okay. Tell me about his complaints to you on July the 7th?

A. We had asked him to come back in a week. And he continued with joint pain. They were migratory, that is they were going from joint to joint, and they were now more simultaneous in multiple joints. He was having headache.

And he was having a sharp epigastric abdominal pain with no nausea, vomiting, or diarrhea, and a right earache and sore throat, but no rash. And he denied any exposure to ticks, which

would be pertinent to questioning whether or not he had Rocky Mountain Spotted Fever. Let me take a minute.

Q. Yes.

(Off the record.)

Q. We were on July 7th. And the history you indicated he did not have ticks. Did he tell you he had a history of Rocky Mountain Spotted Fever as a child?

MR. ROBERTS: July 2nd. Go ahead. I'm sorry.

A. That history of Rocky Mountain Spotted Fever was documented in the chart at age four, and I believe that was taken on my initial history and physical.

Q. Okay. Was there any other history on July 7th other than these migratory, now simultaneous joint pains, headache, return of stomach pain, and sore throat, right earache?

A. That was the history.

Q. Pardon?

A. That was the complete history at that point.

Q. All right. What were your objective

findings at that time or your observations?

A. His skin showed some fading spots in the left scapula, and I believe that was a reference to the patchy areas that I noted on the shoulders on the previous visit, seemed to be fading.

His ears were unremarkable. The tympanic membranes were normal. Eyes were unremarkable without any conjunctivitis. His nose was unremarkable. His throat was clear. His neck was supple and he had no lymph nodes.

His chest was clear to examination. His cardiac exam showed a regular rhythm at 80 with no murmur and no gallop, and extremities showed no edema.

Q. Was there anything of consequence related to the patchy appearance of the skin?

A. Well, there are some -- there are lots of infections that can cause rashes on the skin, so in my assessment I am wanting to make sure he doesn't have Lyme disease, or mononucleosis, and hepatitis, and I'm still thinking that this is an arthritis related to a viral infection.

Q. The skin was indicative of that?

A. Many viral infections can give you a rash.

starting to affect his son who was having arthralgias in the ankle, so I wanted to know if the symptoms were better or were still as bad or worse than when he talked to you five days before on the 2nd?

MR. ROBERTS: Objection. Asked and answered.

A. He didn't clarify whether the intensity was worse, but I was noting that the pattern of them had become more of a migratory pain which fits with a real arthritis. I'm determining in my note --

Q. Okay.

A. -- that there's some significance to having pain that's migratory as opposed to pain in one joint that you would experience with an injury or wear and tear type arthritis in that joint.

Q. Your next contact with him?

A. He called on July 9th and stated he was feeling fine. He was changing insurance companies and he wants these recent episodes explained as an allergic reaction, that was a request. And I wrote a letter stating an allergic reaction was a possibility.

Q. Okay. He was asking you to advise the new

insurance company that this was a simple allergic reaction to a vaccination?

A. Yes.

MR. ROBERTS: Objection.

Q. Pardon?

A. Yes.

MR. ROBERTS: Objection.

Q. And you complied with that request?

A. I complied in that I stated it was a possibility, but not a certainty.

Q. Okay. Did he tell you when he talked to you on the 9th that he had been to see Dr. Dunn on the 8th with complaints of sore throat, pains in the abdomen, sore muscles, and joints?

A. No, I believe that's my nurse's writing and I did not speak with him.

Q. On the 9th?

A. On the 9th.

Q. Did you ever become aware he had seen Dr. Dunn on the 8th with complaints of significant sore throat, pains in the abdomen, sore muscles, and joints?

A. I became aware of that through a note from another arthritis specialist that he subsequently